

REMARKS

This Amendment is filed in response to the Office Action dated March 26, 2007, which has a shortened statutory period set to expire June 26, 2007.

Allowable Subject Matter

Applicant greatly appreciates the Examiner's indication of allowable subject matter. Specifically, Claims 6, 7, 12, 16, 27, 28, 33, and 37 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 6, 7, 12, and 16 depend from Claim 1, which Applicant believes to be patentable. Similarly, Claims 27, 28, 33, and 37 depend from Claim 22, which Applicant believes to be patentable. Therefore, Applicant respectfully declines to amend Claims 6, 7, 12, 16, 27, 28, 33, and 37 herein.

Claims 1-5, 8-11, 13-15, 17-18, 22-26, 29-32, 34-36, And 38-39 Are Patentable Over Sindhushayana And Hamalainen

Claim 1, as amended, recites in part:

computing an achievable user throughput for each valid data rate by computing a product of a theoretical rate and 1 minus a packet error rate (PER).

Applicant notes that this computation limitation was initially recited in Claim 3 (cancelled herein). The Office Action cited Sindhushayana, col. 7, lines 36-41, as well as col. 8, lines 29-48 as teaching this limitation. Applicant traverses this characterization. Specifically, col. 7, lines 36-41 teaches that a "true" packet event occurs when a mobile station detects a preamble and decodes the packet (wherein correctly

decoding occurs if the packet's quality metric matches a quality metric contained in the packet). Col. 8, lines 29-48 teaches one step of an adaptive rate selection method using three rates. In the described step, two data rates R_{i+1} and R_{i+2} are selected, wherein packets received with these data rates will exceed a target PER. The data rates satisfy the following equation: $R_i < R_{i+1} < R_{i+2}$, wherein a packet received with data rate R_i has a PER that will not exceed the target PER. Notably, neither of these citations teaches the recited computing of an achievable user throughput.

Hamalainen fails to remedy the deficiency of Sindhushayana with respect to Claim 1. Specifically, Hamalainen also fails to teach the recited computing of an achievable user throughput.

Based on the above reasons, Applicant requests reconsideration and withdrawal of the rejection of Claim 1.

Claims 2, 4-5, 8-11, 13-15, and 17-18 depend from Claim 1 and therefore are patentable for at least the reasons presented for Claim 1. Based on those reasons, Applicant requests reconsideration and withdrawal of the rejection of Claims 2, 4-5, 8-11, 13-15, and 17-18.

Claim 22, as amended, recites in part:

a third set of instructions for computing an achievable user throughput for each valid data rate by computing a product of a theoretical rate and 1 minus a packet error rate (PER).

Therefore, Claim 22 is patentable for substantially the same reasons presented for Claim 1. Based on those reasons, Applicant requests reconsideration and withdrawal of the rejection of Claim 22.

Claims 23, 25-26, 29-32, 34-36, and 38-39 depend from Claim 22 and therefore are patentable for at least the reasons presented for Claim 22. Based on those reasons, Applicant

requests reconsideration and withdrawal of the rejection of Claims 23, 25-26, 29-32, 34-36, and 38-39.

Claims 19-21 Are Patentable Over Sindhushayana

Claim 19, as amended, recites:

A transmission rate for a packet, the transmission rate being computed based on a received signal strength indicator (RSSI) of one or more packets, RSSI thresholds of possible data rates, theoretical universal data protocol (UDP) rate values of the possible data rates, and packet error rates (PERs) of the possible data rates.

Sindhushayana fails to disclose or suggest a transmission rate being computed based on theoretical UDP rate values of the possible data rates. Therefore, Applicant requests reconsideration and withdrawal of the rejection of Claim 19.

Claims 20-21 depend from Claim 19 and therefore are patentable for at least the reasons presented for Claim 19. Based on those reasons, Applicant requests reconsideration and withdrawal of the rejection of Claims 20-21.

CONCLUSION

Claims 1-2, 4-23, and 25-39 are pending in the present application. Allowance of these claims is respectfully requested.

If there are any questions, please telephone the undersigned at 408-451-5907 to expedite prosecution of this case.

Respectfully submitted,



Customer No.: 30547

Jeanette S. Harms
Attorney for Applicant
Reg. No. 35,537